



Legislative Bulletin.....May 22, 2007

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Summary of the Bills Under Consideration Today

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$60.6 million over five years

Effect on Revenue: Negligible decrease

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 2

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 3

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 0

H.Res. 171 — Honoring the Marquis de Lafayette on the occasion of the 250th anniversary of his birth (*Skelton, D-MO*)

Order of Business: H.Res. 171 is scheduled to be considered on Tuesday, May 22, 2007, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 171 would express that the House of Representatives:

- “honors Marquis de Lafayette on the 250th anniversary of his birth; and
- “urges the cadets of the United States military academies and military officers participating in various professional military education courses to study Lafayette’s impact on the creation of the United States and on the United States military.”

The resolution lists several findings, including:

- “Lafayette was a man of considerable military skill who expressed sympathy for American revolutionary fighters, decided to aid colonists in their struggle for independence, and was voted by Congress the rank and commission of major general in the Continental Army;
- “Lafayette’s military service was invaluable to General George Washington during many Revolutionary War battles, earning him the title of ‘the soldier’s friend’;
- “Lafayette’s strategic thinking, military skill, and dedication as a general officer serve as a model for present day American military officers;
- “because of Lafayette’s strong belief in freedom, he advocated the abolition of slavery in the Americas, favored equal legal rights for religious minorities in France, and became a prominent figure in the French Revolution;
- “in 1824, at the invitation of President Monroe, Lafayette embarked upon a triumphant, year-long tour of all 25 States of the then-United States, during which he became the first foreign dignitary to address a joint session of Congress and visited many Masonic bodies;
- “Lafayette symbolizes the assistance America received from Europe in the struggle for independence;
- “when the United States aided France during the world wars of 1917-1918 and 1941-1945, it was because of shared values of democracy and human rights and because of the deep and long lasting friendship rooted in Lafayette’s service to the United States; and
- “the long-standing military alliance between the United States and France is a cornerstone of NATO and a critical force in our global partnerships.”

Committee Action: H.Res. 171 was introduced on February 15, 2007, and referred to the Committee on Armed Services. On March 14, 2007, the resolution was referred to the Subcommittee on Military Personnel, which took no official action.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

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H.Res. 400 — Expressing the sympathy of the House of Representatives to the citizens of Greensburg, Kansas, over the devastating tornado of May 4, 2007 (Moran, R-KS)

Order of Business: H.Res. 400 is scheduled to be considered on Tuesday, May 22, 2007, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 400 would express that the House of Representatives:

- “expresses its deepest sympathies to the citizens of Greensburg, Kansas, over the devastation caused by the powerful tornado that struck the community on May 4, 2007; and
- “expresses its support as the citizens of Greensburg continue their efforts to rebuild their community and their lives.”

The resolution lists the following findings:

- “on the evening of Friday, May 4, 2007, a tornado struck the community of Greensburg, Kansas;
- “this tornado was classified as an EF-5, the strongest possible type, with winds estimated at 205 miles per hour;
- “9 lives were lost;
- “approximately 95 percent of Greensburg was destroyed, causing over 1,500 residents to be displaced from their homes; and
- “the strength, courage, and determination of the citizens of Greensburg, Kansas, have been evident following the tornado.”

Committee Action: H.Res. 400 was introduced on May 14, 2007, and referred to the Committee on Transportation and Infrastructure, which took no official action.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

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H.Res. 413 — Recognizing the service of United States Merchant Marine veterans (*Filner, D-CA*)

Order of Business: H.Res. 413 is scheduled to be considered on Tuesday, May 22, 2007, under a motion to suspend the rules and pass the resolution.

Summary: H.Res. 413 would express the sense of the House of Representatives “that on National Maritime Day, the House of Representatives recognizes the heroic and invaluable sacrifices that the United States Merchant Marine veterans have made to help ensure our Nation’s prosperity and safety.”

The resolution lists the following findings:

- “the United States Merchant Marine served as the Nation’s first Navy and helped George Washington’s Continental Army defeat the British Navy;
- “since 1775, United States Merchant Mariners have served valiantly in times of peace and in every war;
- “after the terrorist attacks of September 11, 2001, 29 United States Merchant Marine Academy cadets operated a fleet of boats in New York Harbor, transporting firefighters and other emergency equipment workers, medical supplies, and food;
- “more than 8,000 Merchant Mariners serve in the Military Sealift Command, most of them working in support of Operation Iraqi Freedom and Operation Enduring Freedom;
- “the United States Merchant Marine Academy is the only one of the five service academies that sends its cadets into war, and 142 undergraduates of the Academy were lost during World War II;
- “the story of the United States Merchant Mariners of World War II is one of patriotism, of youthful exuberance, of dedication to duty, of bravery in the midst of battle, and of a Nation that forgot these heroes after the end of the war for more than 40 years until 1988, when they were given veteran status;
- “by that time, over 125,000 of those Merchant Mariners had died and many had lost out on opportunities and benefits they greatly deserved; and
- “on National Maritime Day, Congress recognizes the tremendous sacrifices and contributions of the Merchant Marine and its veterans and the entire maritime industry to the Nation.”

Committee Action: H.Res. 413 was introduced on May 17, 2007, and referred to the Committee on Transportation and Infrastructure, which took no official action.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

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H.Con.Res. 128 — Authorizing the printing of a commemorative document in memory of the late President of the United States, Gerald Rudolph Ford (Ehlers, R-MI)

Order of Business: H.Con.Res. 128 is scheduled to be considered on Tuesday, May 22, 2007, under a motion to suspend the rules and pass the resolution.

Summary: H.Con.Res. 128 would authorize the production of a commemorative document in memory of President Gerald Ford. The document would include eulogies and tributes given to Ford by Members of Congress, as well as the text from each of his four state funerals.

The resolution would direct the Joint Committee on Printing to produce the lesser or 32,500 copies or the number of copies that can be produced for \$600,000. The document would be distributed throughout the Congress.

Committee Action: H.Con.Res. 128 was introduced on April 25, 2007, and referred to the Committee on House Administration, which took no official action.

Cost to Taxpayers: A CBO score for H.Con.Res 128 was not available, however the resolution calls for the production of \$600,000 worth of commemoratives documents.

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

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**H.R. 1525 — Internet Spyware (I-SPY) Prevention Act of 2007
(Lofgren, D-CA)**

Order of Business: H.R 1525 is scheduled to be considered on Tuesday, May 22, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1525 would make it illegal to access a protected computer without authorization, or to exceed authorized access to such a computer, by causing a computer program or code to be copied onto the computer and intentionally use that program or code in furtherance of another federal crime. Punishment for violations could include up to five years in prison. It would be illegal (with a smaller punishment—up to two years in prison) to access such a computer with the intent to defraud or injure a person or cause damage to the computer by obtaining or transmitting personal information or by

intentionally impairing the security protection of the computer. Civil actions alleging violations of these provisions could not be brought in any state court.

H.R. 1525 would authorize \$10 million for each of fiscal years 2008 through 2011 to the Attorney General for prosecutions needed to discourage the use of spyware and the practice commonly called phishing. The bill would also express the following sense of Congress:

- “Because of the serious nature of these offenses, and the Internet's unique importance in the daily lives of citizens and in interstate commerce, it is the sense of Congress that the Department of Justice should use the amendments made by this Act, and all other available tools, vigorously to prosecute those who use spyware to commit crimes and those that conduct phishing scams.”

Additional Information: The Federal Trade Commission loosely defines “spyware” as software “that aids in gathering information about a person or organization without their knowledge and which may send such information to another entity without the consumer’s consent, or asserts control over a computer without the consumer’s knowledge.”

“Phishing” is the act of creating a replica of an existing web page to fool a user into submitting personal, financial, or password information. Users are often lured to the fake websites through pop-up ads or spam emails.

An identical bill, H.R. 744, passed in the House during the 109th Congress by a vote of 395 – 1, but failed to make it through the Senate.

Committee Action: H.R. 1525 was introduced on March 14, 2007, and referred to the Committee on the Judiciary, which referred the bill to the Subcommittee on Crime, Terrorism, and Homeland Security. On May 2, 2007, the bill was reported by voice vote and was considered by the full House of Representatives.

Cost to Taxpayers: According to CBO, this legislation would authorize \$40 million over the 2008-2011 period. Additionally, CBO estimates that costs incurred upon state and local governments as a result of the prohibition against civil penalties would not exceed the UMRA threshold of \$66 million annually.

Does the Bill Expand the Size and Scope of the Federal Government? Yes. The bill would create a new crime (accessing a protected computer) and new enforcement guidelines.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No. The Justice Department already has some authority to prosecute spyware and phishing cases under existing law. H.R. 744 would make such authority explicit and specific to these Internet crimes.

Constitutional Authority: A committee report citing constitutional authority is not available. However, House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution” [*emphasis added*].

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H.R. 1615 — Securing Aircraft Cockpits Against Lasers Act of 2007 (Keller, R-FL)

Order of Business: H.R. 1615 is scheduled to be considered on Tuesday, May 22, 2007, under a motion to suspend the rules and pass the bill.

Note: The House passed this bill as H.R. 1400 in the 109th Congress.

Summary: H.R. 1615 would amend Title 18 of U.S. Code to establish a new federal crime by requiring that whoever knowingly aims the beam of a laser pointer at an aircraft or at the flight path of such aircraft is subject to either a fine, or up to five years in prison (or both).

The bill would allow for exceptions in the case of persons conducting tests in coordination with the Federal Aviation Administration, a member of the Department of Defense or Department of Homeland Security conducting research, and an individual using a laser emergency signaling device to send an emergency distress signal.

Additional Information: According to the Committee Report from H.R. 1400, a similar bill offered in the 109th Congress, the number of FAA reported incidents of an individual aiming a laser beam at an aircraft has increased dramatically (400 times since 1990, and 100 times since November 2004). For instance, on November 9, 2005, David Banach of Parsippany, New Jersey, pled guilty to violating the Patriot Act for shining a laser at aircraft on two separate occasions. The guilty plea was part of an agreement in order for Mr. Banach to avoid jail time, which under the Patriot Act could reach up to 20 years.

H.R. 1615 is intended to respond to this threat while providing prosecutors with an alternative to charging individuals under the broader Patriot Act with its more serious consequences. For more background, please see the following news story:
<http://www.cnn.com/2005/US/01/04/laser.beam.charges/>.

Committee Action: H.R. 1615 was introduced on March 21, 2007, and referred to the Committee on the Judiciary, which referred the bill to the Subcommittee on Crime, Terrorism, and Homeland Security on May 1, 2007. On May 2, 2007, a mark-up was held and H.R. 1615 was reported by voice vote. On May 14, 2007, the bill was reported to be considered by the full House of Representatives as amended.

Cost to Taxpayers: According to CBO, H.R. 1615 would not significantly increase the cost of law enforcement, court proceedings, or prison operations because the law would likely apply to a small number of offenders. In addition, the fines collect from those who violate the new law would likely be insignificant.

Does the Bill Expand the Size and Scope of the Federal Government? Yes. H.R. 1615 would establish a new federal crime for aiming the beam of a laser pointer at an aircraft or at the aircraft's flight path.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Constitutional Authority: Committee Report 110-149 cites authority in Article I, Section 8, Clause 3 (the Commerce Clause) of the United States Constitution.

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S. 214 — Preserving United States Attorney Independence Act of 2007 (*Sen. Feinstein, D-CA*)

Order of Business: S. 214 is scheduled to be considered on Tuesday, May 22, 2007, under a motion to suspend the rules and pass the bill.

Summary: S. 214 would amend current law to allow federal judges in federal court districts to fill vacant U.S. Attorney positions if the President has not done so within 120 days of the vacancy.

Additional Information: Under current law, the Attorney General is permitted to appoint an interim U.S. Attorney to serve for an indefinite period of time until the vacancy is filled. During the interim period, the President, with the advice and consent of the U.S. Senate, is charged with finding a candidate for the position and filling the vacancy. S.214 would change this procedure by requiring the President to fill a vacancy within 120 days. As such, the interim U.S. Attorney (appointed by the Attorney General) could only serve in this position for 120 days. At that time, if the President has not appointed an individual, the appropriate district court would fill the vacancy. However, if the President later appoints an individual to the position, upon advice and consent of the Senate, this appointee would be the district court's selection.

Proponents of S. 214 argue that the legislation would encourage judicial independence because interim U.S. Attorneys would not be political appointees. According to Sen. Ken Salazar, a supporter of the bill and former Attorney General of Colorado, "I am proud to have supported the Preserving United States Attorney Independence Act, which just passed the Senate. This bill will go a long way towards restoring the independence of federal prosecutors – an independence which has, unfortunately, been chipped away in recent years."

Others, however, believe that the legislation is tantamount to an abandonment of Constitutional separation of power between the branches of government. Some have argued that allowing the courts and federal judges to select prosecutors is more dangerous to the independence of the judiciary because federal judges have lifetime terms and are not subject to public scrutiny for their decisions via an election. Sen. Pete Sessions, a U.S. Attorney for 12 years, said on the floor of the Senate,

“When we elect a President, we understand they are going to appoint U.S. attorneys who will be responsible for their effort, and if they refuse to prosecute immigration cases, for whatever reason they might decide, and the United States public knows about this, what recourse do they have? They can vote against the President if he appoints somebody who won't enforce the law, gun prosecutions, or any other kind of prosecutions. That is an accountability of sorts. But to have a judge who has a lifetime appointment make these appointments and who has no accountability to the public is not healthy. I believe it undermines accountability.”

Sessions also suggested that difficult federal cases with tough decisions concerning the admissibility of evidence or testimony could be scrutinized if a judge was responsible for the appointment of a prosecutor.

As introduced, S. 214 stripped the current authority of the Attorney General to appoint interim attorneys. However, the bill was amended on the floor to include language permitting the Attorney General to make an interim appointment. As such, several Senators withdrew their opposition, and the bill passed the Senate by a vote of 94 – 2.

Committee Action: S. 214 was passed in the Senate on March 20, 2007, by a vote of 94 – 2 and was reported to the House on that same day.

Cost to Taxpayers: According to CBO, S. 214 would not significantly increase the cost of law enforcement, court proceedings, or prison operations because the law would likely apply to a small number of offenders. In addition, the fines collect from those who violate the new law would likely be insignificant.

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Constitutional Authority: A committee report citing constitutional authority is not available. However, a Committee Report for H.R. 580 (a similar House bill), cites the in Article 2, Section 2, Clause 2 of the Constitution (authorizing the President to make judiciary appointments).

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H.R. 2264—No Oil Producing and Exporting Cartels Act (Conyers, D-MI)

Order of Business: The bill is scheduled to be considered on Tuesday, May 22nd, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2264 would make it a federal crime “for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action--

- “to limit the production or distribution of oil, natural gas, or any other petroleum product;
- “to set or maintain the price of oil, natural gas, or any petroleum product; or
- “to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, **substantial**, and **reasonably foreseeable** effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.” (emphasis added)

A foreign state engaged in conduct in violation of the provision above would not be immune, under the doctrine of sovereign immunity, from the jurisdiction or judgments of U.S. courts in any action brought to enforce this section.

In other words, the bill would authorize the U.S. Justice Department to file anti-trust lawsuits in any federal district court against the Organization of Petroleum Exporting Countries (OPEC), and OPEC (or other such organization) could not claim immunity against such suits. No court could refuse to make a determination in such a lawsuit because it involves actions of foreign countries.

NOTE: Key operative terms in the legislation, such as “substantial” and “reasonably foreseeable” are not defined.

Additional Background: This legislation amends the Sherman Act (15 U.S.C. 1 et seq.), which is the anti-trust statute that makes it a federal crime to contract or conspire to restrain trade (among the states and/or with foreign nations).

There are certain instances in current law (28 U.S.C. 1605(a)) in which foreign states are made explicitly NOT immune from prosecution in U.S. courts (such as matters involving federal property, and commercial activity carried on by the foreign state in the U.S.). H.R. 2264 would add the oil “cartel” provisions to this list of *exceptions* to foreign state immunity.

The “Act of State Doctrine” is the general practice of U.S. courts that a foreign nation’s domestic actions may not be questioned in a U.S. court. H.R. 2264 would explicitly waive the Act of State Doctrine for cases arising out of H.R. 2264.

RSC Bonus Fact: OPEC is an organization of 12 oil-exporting countries that seek to “coordinate their oil production policies in order to help stabilize the oil market and to help oil producers achieve a reasonable rate of return on their investments. This policy is also designed to ensure that oil consumers continue to receive stable supplies of oil.” OPEC Members are: Algeria, Angola, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, the United Arab Emirates, and Venezuela. Thus, although OPEC is generally regarded as a collection of Middle East countries only, in reality, its Member-countries are from various parts of the world, including Africa, South America, and East Asia.

See the OPEC homepage here:
<http://www.opec.org/home/>

Committee Action: On May 10, 2007, the bill was referred to the Judiciary Committee, which, one week later, marked up and ordered the bill reported to the full House by voice vote.

Possible Conservative Concerns: Some conservatives may be concerned that this legislation could set a precedent that could encourage other countries to sue the United States for export activities in which it is dominant. Some conservatives may also be concerned with the creation of an industry-specific exception to the list of sovereign immunity exceptions in current law, which contain only general provisions not linked to a specific industrial product. Lastly, the United States imports the majority of its petroleum from OPEC nations, thus, allowing lawsuits against OPEC in U.S. courts does not seem likely to make such imports cheaper or more readily available.

Administration Position: The Statement of Administration Policy (SAP) for this bill says that, “The Administration strongly opposes House passage of H.R. 2264. This bill has the potential to lead to oil supply disruptions and an escalation in the price of gasoline, natural gas, home heating oil, and other sources of energy.... If H.R. 2264 were presented to the President, his senior advisors would recommend that he veto the bill.”

Cost to Taxpayers: CBO writes that it “cannot estimate a precise cost of implementing H.R. 2264 because we have no basis for assessing the likelihood that the Administration might initiate antitrust actions against foreign states under the bill. Based on information from DOJ on the costs of investigations of alleged antitrust violations, CBO estimates that similar investigations to those that might be brought under H.R. 2264 could cost up to \$4 million per year, subject to appropriation of the necessary funds.” Additionally, CBO writes, “CBO cannot estimate the impact of H.R. 2264 on direct spending and revenues because we cannot determine whether DOJ would file suit against alleged violators, whether the agencies would win such legal action, or how much in penalties might be collected by federal agencies.” But, CBO estimates that any such impact on revenues and mandatory spending would be insignificant.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill would allow lawsuits in federal courts against foreign nations for industry-specific violations.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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S. 1104 — A bill to increase the number of Iraqi and Afghani translators and interpreters who may be admitted to the United States as special immigrants (Sen. Lugar, R-IN)

Order of Business: S. 1104 is scheduled to be considered on Tuesday, May 22, 2007, under a motion to suspend the rules and pass the bill.

Summary: S. 1104 would amend current law to increase from 50 to 500, the number of special immigrant visas given to translators and interpreters working for the Chief of Mission or the U.S. Armed forces working in Iraq and Afghanistan over the next two years.

Additional Information: According to Committee Report 110-158, translators working with the United States in Iraq and Afghanistan “provide vital assistance in their home countries to the mission of the United States Armed Forces and Department of State.” As a result of their cooperation with the United States, many of the translators and their families are targeted by American enemies. Under the current law, only 50 special visas are given for translators and interpreters working with the U.S. Armed Forces overseas. The committee reports that “there are currently ten times as many translators and interpreters approved and awaiting visas that will allow them to flee threats in Iraq and Afghanistan than there are visas available.”

Cost to Taxpayers: According to CBO, S. 1104 could affect direct spending and revenues by the Department of Homeland Security, but estimates that the bill would have no *significant* impact on the budget because of the relatively small number of visas.

Does the Bill Expand the Size and Scope of the Federal Government? No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Constitutional Authority: Committee Report 110-149 cites authority in Article I, Section 8, Clause 4 (given Congress the power to oversee naturalization) of the United States Constitution.

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H.R. 2399 — To amend the Immigration and Nationality Act and title 18, United States Code, to combat the crime of alien smuggling and related activities, and for other purposes (*Baron, D-IN*)

Order of Business: H.R. 2399 is scheduled to be considered on Tuesday, May 22, 2007, under a motion to suspend the rules and pass the bill.

Summary: H.R. 2399 would require that the Department of Homeland Security, to the best of its ability, check all alien smugglers and smuggled individuals that are interdicted in the United States.

The legislation would also add language to the section of U.S. Code that covers bringing in and harboring certain aliens in order to specifically criminalize the “Smuggling of Unlawful Terrorist Aliens.” H.R. 2399 would stipulate that anyone who knowingly brings, recruits, encourages, transports, harbors, or conceals any alien smuggler could be punished by fines described in Title 18 and by imprisonment of up to 30 years depending on the type of offense. Those who attempt to kidnap or kill someone while committing a crime under this section will be subject to a life sentence.

H.R. 2399 would also amend maritime law enforcement under Title 18 to require that anyone who violates alien transportation laws within the jurisdiction of maritime law enforcement will be subject to fines and imprisonment between five years and life depending on the nature of the crime.

The bill would subject all sentencing guidelines to review of the United States Sentencing Commission, which is permitted to provide sentencing enhancements or stiffen existing enhancements in certain circumstances. H.R. 2399 would prohibit an accused violator of provisions in the bill from using “necessity” as a defense unless the accused contacted the Coast Guard or other law enforcement as soon as possible and did not knowingly facilitate the entry of an illegal alien.

H.R. 2399 also lists the following findings:

- “Alien smuggling by land, air and sea is a transnational crime that violates the integrity of United States borders, compromises our Nation’s sovereignty, places the country at risk of terrorist activity, and contravenes the rule of law.

- “Aggressive enforcement activity against alien smuggling is needed to protect our borders and ensure the security of our Nation. The border security and anti-smuggling efforts of the men and women on the Nation's front line of defense are to be commended. Special recognition is due the Department of Homeland Security through the United States Border Patrol, United States Coast Guard, Customs and Border Protection, and Immigration and Customs Enforcement, and the Department of Justice through the Federal Bureau of Investigation.
- “The law enforcement community must be given the statutory tools necessary to address this security threat. Only through effective alien smuggling statutes can the Justice Department, through the United States Attorneys’ Offices and the Domestic Security Section of the Criminal Division, prosecute these cases successfully.
- “Alien smuggling has a destabilizing effect on border communities. State and local law enforcement, medical personnel, social service providers, and the faith community play important roles in combating smuggling and responding to its effects.
- “Existing penalties for alien smuggling are insufficient to provide appropriate punishment for alien smugglers.
- “Existing alien smuggling laws often fail to reach the conduct of alien smugglers, transporters, recruiters, guides, and boat captains.
- “Existing laws concerning failure to heave to are insufficient to appropriately punish boat operators and crew who engage in the reckless transportation of aliens on the high seas and seek to evade capture.
- “Much of the conduct in alien smuggling rings occurs outside of the United States. Extraterritorial jurisdiction is needed to ensure that smuggling rings can be brought to justice for recruiting, sending, and facilitating the movement of those who seek to enter the United States without lawful authority.
- “Alien smuggling can include unsafe or recklessly dangerous conditions that expose individuals to particularly high risk of injury or death.”

Additional Information: According to a 2005 GAO study on illegal alien smuggling, “Globally, alien smuggling generates billions of dollars in illicit revenues annually and poses a threat to the nation’s security. Creation of the Department of Homeland Security (DHS) in March 2003 has provided an opportunity to use financial investigative techniques to combat alien smugglers by targeting and seizing their monetary assets... GAO suggests that the Attorney General consider developing and submitting to Congress a legislative proposal, with appropriate justification, for amending the civil forfeiture authority for alien smuggling.” H.R. 2399 is meant to toughen existing laws on alien smuggling and to define laws in certain jurisdictions.

Cost to Taxpayers: According to CBO, score for H.R. 2399 was not available.

Does the Bill Expand the Size and Scope of the Federal Government? The bill defines new punishments for the specific crime of alien smuggling.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? No.

Constitutional Authority: A committee report citing constitutional authority is not available. However, House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution” *[emphasis added]*.

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